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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,920	03/16/2005	David Anthony Gold	118.028US01	8581

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EXAMINER
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RUNNING, RACHEL A

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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04/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/527,920	<b>Applicant(s)</b> GOLD, DAVID ANTHONY	
	<b>Examiner</b> RACHEL A. RUNNING	<b>Art Unit</b> 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 67-132 is/are pending in the application.
- 4a) Of the above claim(s) 67-98 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 99-107 and 109-132 is/are rejected.
- 7) ☐ Claim(s) 108 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group II in the reply filed on February 20, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 67-99 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 20, 2008.
3. The election restriction is therefore made FINAL.

### ***Information Disclosure Statement***

4. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of ribs and

grooves, the tear lines having a substantially fret- or coil shaped path, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 108, 116, and 128 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 108, "the side edges...the creasings" lack a prior antecedent.
9. Claim 116, states "a surface roughness...and a plurality of ribs and grooves", however, claims 112 and 114 already state "a surface roughness....a plurality of ribs and grooves".
10. Claim 128, "the loops" lacks a prior antecedent.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claim 125 is rejected under 35 U.S.C. 102(b) as being anticipated by Gold (DE 202 03 301).

Gold discloses a plurality of hair extensions (3) having respective proximal ends provided with a respective connecting element (13), and a first adhesive (11), and a second adhesive tape (14) with an adhesive face (see Figure 1).

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 99-105, 109, and 117-124 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (DE 202 03 301).

Gold discloses a plurality of hair extension (3) having a proximal end provided with a respective connecting element (13) and an adhesive tape (11) having a section with an adhesive face onto which there are arranged proximal ends according to a predetermined arrangement (see Figure 1). The connecting elements are made from a thermoplastic material, such as polyester, polyamide, and polyurethane. The adhesive tapes are transparent, and operated by pressure. The adhesive tape is resistant to heat; the connecting elements are equidistant and placed at the center of the respective section of the adhesive tape. The extensions are aligned in parallel to each other so that the hairs of adjacent extensions do not get knotted to each other. The device further comprises a support tape (29) made from a material easily detachable from the adhesive tape. The connecting elements are made from reactive hot-melt glue that is hardening and a two-pack adhesive. Gold discloses two adhesive tapes (11, 13) connected to each other, instead of the adhesive tape comprising a remainder part to be folded on the section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the two pieces of adhesive tape of Gold be one tape folded onto itself, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893). Regarding claims

117-121, "the face of the adhesive tape is designed to come into contact with the connecting element is substantially covered with fluff", the only limitation of claim 117 is that the face be "designed to" come into contact with the connecting element, the "fluff" is not positively claimed and is therefore is not given weight since the device of Gold is capable of coming into contact with the connecting element substantially covered with fluff and hence meets the claim limitation.

15. Claims 106 and 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (DE 202 03 301) in view of Moffat Devine et al. (US 6,703,097).

Gold discloses the claimed invention except for the adhesive tape comprising a means for indicating the position.

Moffat Devine et al. discloses using indicia (52) on adhesive tape to indicate a position to assist the user (see Figure 2; column 5, lines 50-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the adhesive tape of Gold with indicia as taught by Moffat Devine et al. in order to assist the user in positioning the tape.

16. Claim 107 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (DE 202 03 301) in view of Lamb (Des 336,563).

Gold discloses the claimed invention except for the adhesive tape comprises a flap substantially in a billfold configuration.

Lamb teaches a billfold configuration with a flap (see Figures 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made

to modify the device of Gold with a flap as taught by Lamb in order to further secure the billfold configuration.

17. Claims 111-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (DE 202 03 301) in view of Kawashima (US 6,534,172).

Gold discloses the claimed invention except for the adhesive tape comprising an opaque surface roughness and a plurality of ribs and grooves on the tape.

Kawashima teaches an adhesive tape comprising an opaque surface roughness (column 2, lines 25-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Gold with an adhesive tape having an opaque surface roughness as taught by Kawashima in order to change the color of the tape. It would have been an obvious matter of design choice to have a plurality of ribs and grooves on the tape, since applicant has not disclosed that the ribs and grooves solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well without ribs and grooves.

18. Claims 126-132 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gold (DE 202 03 301) in view of Johnson et al. (US 6,756,519).

Gold discloses the claimed invention except for the adhesive tape having preferential tearing lines.

Johnson et al. disclose tape comprising preferential tearing lines (18) having a slit and the preferential tearing lines are separation lines (see Figure 1; column 2, lines 10-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Gold with preferential tearing lines as taught



by Johnson et al. in order to separate pieces of the tape. It further would have been an obvious matter of design choice to have the preferential tearing lines follow a fret- or coil shaped path, since applicant has not disclosed that path solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well a straight path.

### ***Allowable Subject Matter***

19. Claim 108 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RACHEL A. RUNNING whose telephone number is (571)272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner, Art Unit 3732

/Rachel A. Running/  
Examiner  
Art Unit 3732

4/24/2008